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HOUSE BILL 557

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO CONDEMNATION PROCEEDINGS; PROVIDING LITIGATION
EXPENSES FOR SUCCESSFUL CONDEMNEDS IN EMINENT DOMAIN
LITIGATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 42A-1-25 NMSA 1978 (being Laws 1981,
Chapter 125, Section 21) is amended to read:

"42A-1-25. LITIGATION EXPENSES.--

A. The court shall award the condemnee [~~his~~]
litigation expenses whenever:

(1) the condemnor has abandoned the
condemnation proceeding;

(2) the condemnation proceeding has been
dismissed for any reason except when a bona fide settlement has
been reached; [~~or~~]

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1 (3) there is a final determination that the
2 condemnor does not have a right to take the property sought to
3 be acquired in the condemnation proceeding;

4 (4) the court finds that the condemnor is
5 liable to the condemnee as provided in Section 42A-1-12 NMSA
6 1978;

7 (5) the condemnee is awarded compensation and
8 damages against the condemnor in a condemnation proceeding in
9 an amount greater than the amount offered in the condemnor's
10 petition as provided in Subsection B of Section 42A-1-17 NMSA
11 1978; or

12 (6) the court makes an order permitting entry
13 for suitability studies as provided in Section 42A-1-9 NMSA
14 1978.

15 B. Before awarding litigation expenses pursuant to
16 this section, the court shall review the reasonableness of such
17 expenses and fees."